

ORIGINAL

September 30, 2011

VIA MESSENGER

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

FILED/ACCEPTED

SEP 30 2011

Federal Communications Commission  
Office of the Secretary

Re: Amendment of Section 73.622(i), Post-Transition Table of DTV  
Allotments, Television Broadcast Stations  
(Montgomery, Alabama), *Notice of Proposed Rulemaking*,  
MB Docket No. 11-137, RM-11637 (rel. Aug. 18, 2011)  
Chanel 32 Montgomery, LLC

Dear Ms. Dortch:

On behalf of Channel 32 Montgomery LLC, licensee of commercial television station WNCN(TV), Montgomery, Alabama, we hereby transmit an original and four copies of comments in support of the above-captioned *Notice of Proposed Rulemaking* to substitute channel 31 for channel 32 at Montgomery, Alabama in the Table of DTV Allotments.

If any additional information is needed in connection with this matter, please contact the undersigned.

Sincerely,



Louis Wall  
President  
CHANNEL 32 MONTGOMERY LLC  
525 Blackburn Drive  
Augusta, Georgia 30907  
(706) 855-8506

Enclosure

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
)  
)

Amendment of Section 73.622(i) )  
Post-Transition Table of Allotments, Digital )  
Television Broadcast Stations )  
(Montgomery, Alabama) )  
)

MB Docket No. 11-137  
RM - 11637

FILED/ACCEPTED

To: The Secretary

SEP 30 2011

Attn: Chief, Video Division  
Media Bureau

Federal Communications Commission  
Office of the Secretary

**COMMENTS OF CHANNEL 32 MONTGOMERY LLC**

Channel 32 Montgomery LLC ("Licensee"), licensee of WNCF(TV), Montgomery, Alabama (the "Station"), by and through its attorneys, and pursuant to Sections 1.415 and 1.419 of the rules of the Federal Communications Commission ("Commission" or "FCC"),<sup>1</sup> hereby submits these comments in support of the Notice of Proposed Rulemaking<sup>2</sup> to amend the DTV Table of Allotments<sup>3</sup> to substitute channel 31 for channel 32 at Montgomery, Alabama.

As discussed in the Petition for Rulemaking ("Petition")<sup>4</sup> filed by the Licensee in the above captioned proceeding, the proposed substitution of the Station's post-transition DTV channel from channel 32 to channel 31 is in the public interest because it will permit the Station

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<sup>1</sup> 47 C.F.R. §§ 1.415, 1.419 (2007).

<sup>2</sup> Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Montgomery, Alabama), *Notice of Proposed Rulemaking*, MM Docket No. 11-137, RM-11637, DA 11-1414 (Aug. 18, 2011) ("Notice"); Television Broadcasting Services; Montgomery, AL, Federal Communications Commission, *Proposed Rule*, 76 Fed. Reg. 169, 54188-54189 (Aug. 31, 2011).

<sup>3</sup> 47 C.F.R. § 73.622(i) (2007).

<sup>4</sup> Channel 32 Montgomery LLC Petition for Rulemaking to Amend the Post-Transition Digital Television Table of Allotments for Station WNCF(TV), Montgomery, Alabama, *Petition for Rulemaking*, MM Docket No. 11-137, RM-11637 (filed May 31, 2011) ("Petition"). The Licensee incorporates by reference the Petition along with the Engineering Statement attached to the Petition.

to offer more meaningful replication of its traditional analog service area. The Commission selected the technical parameters set forth in the initial DTV Table of Allotments to “allow existing broadcasters to provide DTV service to a geographic area that replicates, to the extent feasible, the service area of their existing NTSC [or analog] station.”<sup>5</sup> Having operated on DTV channel 32 for over a year, the Licensee believes that operation on channel 31 would offer more meaningful replication of its traditional analog service area. Therefore, grant of the Petition would serve the public interest because substitution of channel 31 for channel 32 would promote the Commission’s goal of replicating the Station’s analog service area more closely.

The FCC also should grant the Petition because the proposed channel 31 facility complies with all relevant technical requirements for amendment of the FCC’s post-transition DTV Table of Allotments. Specifically, channel 31 can be substituted for channel 32 at Montgomery Alabama, as proposed, in compliance with the principal community coverage requirements of Section 73.625(a)<sup>6</sup> and the technical requirements set forth in Sections 73.616 and 73.623 of the Commission’s rules.<sup>7</sup> Also, as set forth in the technical exhibit attached to the Petition, the proposed operation is not predicted to cause impermissible interference to any other station.

Thus, the Licensee respectfully requests that the Commission amend the Post-Transition Table of DTV Allotments to

Register and that the adopting order permit the Station to file a minor change application for a construction permit specifying channel 31 in lieu of channel 32 within the 30 day period after publication of the order (“Procedural Request”). Section 553(d)(3) of the Administrative Procedures Act<sup>8</sup> provides a “good cause” exception to the general requirement that an agency provide a thirty-day notice period before the effective date of a new rule. The Procedural Request is supported by good cause. The Station’s current construction permit expires on December 17, 2011. Given the pleading cycle in the instant proceeding, the Licensee may not receive a new construction permit before the current permit lapses. Grant of the Procedural Request will ensure that the Licensee can apply for a new construction permit for the channel substitution without waiting thirty days after publication, and enable it to secure a new construction permit prior to the expiration of its current permit. The Procedural Request is also consistent with previous decisions where the Media Bureau has employed a similar procedure *sua sponte*.<sup>9</sup>

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<sup>8</sup> 5 U.S.C. § 553(d)(3).

<sup>9</sup> See, e.g., *Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations*. (Chicago, Illinois), MB Docket No. 09-146, released September 15, 2009.

\* \* \* \* \*

For the foregoing reasons, the Licensee supports substitution of channel 32 for 31 at Montgomery, Alabama and respectfully requests that the Media Bureau grant its Procedural Request. Finally, the Licensee hereby re-affirms its intention to apply for channel 31 at Montgomery if it is allotted, and if authorized, to build a channel 31 station promptly.

Respectfully submitted,

**Channel 32 Montgomery LLC**

By: *Louis Wall by TMO*

Louis Wall

*President*

CHANNEL 32 MONTGOMERY LLC

525 Blackburn Drive

Augusta, Georgia 30907

(706) 855-8506

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